



TO: Local Governments and Others Interested in the  
Treasure State Endowment Program

FROM: Jim Edgcomb, Manager  
Treasure State Endowment Program

DATE: January 14, 2010

RE: Draft Application Guidelines for the Treasure State Endowment  
Program

The Montana Department of Commerce is pleased to acquaint you with the proposed changes presented in the revision of the Treasure State Endowment Program (TSEP) Application Guidelines. The guidelines explain how cities, towns, counties, tribal governments, and county water, sewer, and solid waste districts may apply for grants through the program for the next two years. The guidelines also explain the policies that the Department proposes to follow in evaluating TSEP construction grant applications, which are then presented to the Governor and the 2011 Legislature. **The Department will hold a public hearing on the proposed changes on February 4, 2010, and comments will be accepted through February 11, 2010.**

The revised TSEP Application Guidelines can be viewed on the program's web site ([http://comdev.mt.gov/CDD\\_TSEP\\_Grants.asp](http://comdev.mt.gov/CDD_TSEP_Grants.asp)). The following information summarizes the substantive changes that are being proposed:

#### **In Section II – Eligible Projects**

1. Added a new provision that would allow an existing, publically-owned water system to connect to a privately-owned water system in order to purchase bulk water to supply the public system.

#### **In Section III - Construction Grants**

2. Changed date that construction grant applications are due: April 16, 2010.
3. Added a clarification that if an applicant submits a new application for a project for which the applicant has already received a TSEP construction grant, the MDOC will recommend to the Legislature that the previously awarded grant be terminated if the new grant is awarded a new construction grant.
4. Added a new provision that only one application per project is permitted each application cycle.
5. Added clarification to indicate when a bridge project would be eligible for more than a \$500,000 construction grant.

6. Added clarification that residential user rates cannot simply be raised beyond the amount necessary to complete the proposed project in order to qualify for \$625,000 or \$750,000.
7. Added clarification that only full-time, occupied residential properties at the time the application is submitted will be counted as benefited households; un-developed vacant lots, properties used as vacation rentals, or second homes that are not the primary residence of the owners, are not counted as benefited households.
8. Added clarification that to be an eligible project expense that can be reimbursed, the improvements must be owned and maintained by the grant recipient.

#### **In Section IV - Preliminary Engineering Grants**

9. Added a new provision that MDOC will set aside \$90,000 after the initial grants are awarded to be used for awards for local governments that have not applied previously for the system to be studied. If any of these funds are still available after December 31, 2011, the funds will be released to any eligible applicant.
10. Added clarification counties may submit one application to study its bridge system or any other eligible infrastructure that is the responsibility of the county, and another application to study an unincorporated community that is not served by a community water or wastewater system.
11. Added a new provision that only one PER grant application per project per cycle will be accepted.
12. Added a new provision that the MDOC will only award PER grants to local governments that are in compliance with the State's auditing and reporting requirements provided for in Section 2-7-503, MCA. If the local government has failed to conduct audits or submit reports as required by statute, or has received an adverse audit opinion or disclaimer from any state or federal agency or authorized agent thereof, a grant will be tentatively awarded, but no funds will be released until the reporting requirements have been complied with, or if an audit is required before a financial report can be submitted, an auditor has been contracted with and the audit is scheduled. If one of these two actions have not taken place by December 31, 2011, the grant award will be rescinded and the funds will be released to award to another eligible applicant.
13. Added clarification on how applications would be prioritized if there are more applications than funds available at the time grants are first awarded.
14. Changed date to July 1, 2011 when applications from local governments that received a preliminary engineering grant in the previous cycle, for the same type of eligible project, will be processed.
15. Added clarification that applications to update, amend, or improve a PER, for the specific project addressed in the original PER, and previously funded by the Department of Commerce (TSEP, CDBG, or the Coal

Board) within the past four years will only be considered after August 1, 2011.

16. Added a new provision that applications to update, amend, or improve a PER will not be accepted if the applicant has already received a TSEP construction grant for that same project. Once the construction grant recipient has fulfilled its start-up conditions, TSEP may potentially reimburse the grant recipient for the costs incurred in revising the PER as long as all other requirements are met.
17. Added a new provision that MDOC will allow the use of lump sum contracts with engineers to complete the preliminary engineering report.

#### **In Section V - Emergency Grants**

18. Added clarification to the definition of an emergency project:
  - The situation being corrected must be the result of reasonably unforeseen circumstances and not the result of normal use, age, deterioration, or negligence on the part of the owner; funding shall not be recommended for projects that would have been addressed and prevented through an adequate O&M program.
  - Before being considered an emergency for purposes of this program, the project must mitigate a problem that is critical to the operation of a system. Funding will not be provided for preventive maintenance or to provide a backup to an existing system component.
19. Added a new provision that eligible applicants requesting an emergency grant should be in compliance with the State's auditing and reporting requirements provided for in Section 2-7-503, MCA. If an applicant has failed to conduct audits or submit reports as required by statute, or has received an adverse audit opinion or disclaimer from any state or federal agency or authorized agent thereof, the MDOC may deny requests for an emergency grant until the applicant can demonstrate that it is in compliance with the State's requirements.
20. Added clarification if a county that requests an emergency grant for a bridge will be expected to apply for a preliminary engineering report grant in the next cycle to assess all of the county's bridges if an assessment of all bridges has not been completed within the past five years. If an assessment is not completed, the next emergency grant request for a bridge in that county may be turned down.

#### **In Appendix D - Application Review Process**

21. The total number of possible points for Statutory Priority #1 was increased by 100 points to help put a greater emphasis on solving serious health and safety problems.
22. Added a new provision that projects that receive a level "5" score on Statutory Priority #1 may, at the sole discretion of MDOC, be moved up higher in the ranking, regardless of the number of total points received in order to ensure the serious health and safety problems are resolved. At

- the sole discretion of MDOC, projects that are simply moved up higher in the ranking, because they receive a level “5” score, may be recommended for only the amount of funds necessary to resolve the serious problem that warranted the level “5” score.
23. Added a new provision that no project will be recommended for a grant if the score on Statutory Priority #1 is a level “2” or less, regardless of the overall score for all seven priorities, since there does not appear to be a serious health or safety problem. A similar provision was also added for priorities #3 and #5 when it does not appear that the project is technically or financially feasible.
  24. Removed the terms “substantial property loss” and “environmental pollution” from the description of the second criteria of Priority #1, since the statutory language describing Priority #1 only refers to serious public health or safety problems. Environmental pollution is taken into account in terms of the impact that the pollution has on the public’s health and safety.
  25. Several changes proposed to the evaluation criteria and scoring definitions of priority #4, in order to align the criteria with how the report to the Legislature is written and to emphasize the importance of capital improvements planning.
  26. Added clarification that the score on Statutory Priority #1 for all projects will generally be weighted when there are multiple deficiencies, based on the severity of the problem related to that deficiency and the cost to resolve that deficiency.
  27. Added clarification on how fire flow type projects are scored.
  28. Added clarification on how projects involving deteriorated water mains are scored.
  29. Added clarification on how projects involving surface water or groundwater under the influence of surface water are scored.
  30. Added clarification on how storm water projects based on flooding are scored.
  31. Added several clarifications on how solid waste projects are scored.
  32. Added a new provision that a level 2 score may also be awarded for Statutory Priority #3 if the PER was grossly incomplete, by failing to reasonably address the report components presented by the Preliminary Engineering Report Outline in the Uniform Application, even though the solution may be reasonable and appropriate.
  33. Added clarification that the score for Statutory Priority #5 may be reduced if an applicant is intending to obtain a CDBG grant and there does not appear to be a high probability that the grant would be awarded.
  34. Added clarification that a level 5 score on Statutory Priority #5 for bridges will only be awarded for projects involving only one bridge.
  35. Added clarification to Statutory Priority #6 that a score higher than a level 1 will only be considered for a rural, residential subdivision if the applicant can demonstrate that commercial development is a permitted use within the subdivision and that there are vacant lots available that are intended to be developed for commercial uses.

- 36. Added clarification to Statutory Priority #6 that a score higher than a level 2 will only be considered if the applicant can clearly demonstrate that the expansion could not occur without the proposed project; for example, there is insufficient capacity or there is a general moratorium on new connections.
- 37. Added clarification to Statutory Priority #7 on what documentation is needed related to meetings/hearings.
- 38. Added clarification to Statutory Priority #7 on what is required to demonstrate that a project is a high priority.

Your comments are very important to the Department. Please consider attending the public hearing on February 4, 2010, at 2:00 p.m., at the Department of Commerce, conference room 226, 301 S Park Ave, Helena, to provide comments on the revised TSEP Application Guidelines. Written comments are strongly encouraged, and the Department will accept them by mail (PO Box 200523, Helena, MT 59620), email (jedgcomb@mt.gov), or fax (841-2771). Comments can also be submitted at the public hearing so that your concerns or suggestions are clearly communicated. **In order for your comments to be considered, they must be received no later than 5:00 p.m. on February 11, 2010.**

Please contact me at 841-2785 if you have any questions regarding the proposed changes.